

Subsec. (g)(2). Pub. L. 106-567, § 401(c), substituted “financial statements to be prepared with respect to the program. Office of Management and Budget guidance shall also determine the procedures for conducting annual audits under paragraph (1).” for “annual audits under paragraph (1)”.

1999—Subsec. (a). Pub. L. 106-120, § 401(a), substituted “, nonappropriated fund entities or instrumentalities associated or affiliated with the Agency, and other” for “and to other”.

Subsec. (c)(2)(D). Pub. L. 106-120, § 401(b)(1), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “Amounts collected in payment for loss or damage to equipment or other property of a central service provider as a result of activities under the program.”

Subsec. (c)(2)(E), (F). Pub. L. 106-120, § 401(b)(2), (3), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (f)(2)(A). Pub. L. 106-120, § 401(c), inserted “central service providers and any” before “elements of the Agency”.

Subsec. (h)(1). Pub. L. 106-120, § 401(d), substituted “2002” for “2000”.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

AVAILABILITY OF FUNDS CREDITED TO CENTRAL SERVICES WORKING CAPITAL FUND

Pub. L. 113-235, div. C, title VIII, § 8033, Dec. 16, 2014, 128 Stat. 2260, provided in part: “That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended”.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 113-76, div. C, title VIII, § 8032, Jan. 17, 2014, 128 Stat. 111.

Pub. L. 113-6, div. C, title VIII, § 8032, Mar. 26, 2013, 127 Stat. 304.

Pub. L. 112-74, div. A, title VIII, § 8032, Dec. 23, 2011, 125 Stat. 812.

Pub. L. 112-10, div. A, title VIII, § 8033, Apr. 15, 2011, 125 Stat. 64.

Pub. L. 111-118, div. A, title VIII, § 8035, Dec. 19, 2009, 123 Stat. 3436.

Pub. L. 110-329, div. C, title VIII, § 8035, Sept. 30, 2008, 122 Stat. 3629.

Pub. L. 110-116, div. A, title VIII, § 8035, Nov. 13, 2007, 121 Stat. 1322.

Pub. L. 109-289, div. A, title VIII, § 8033, Sept. 29, 2006, 120 Stat. 1281.

Pub. L. 109-148, div. A, title VIII, § 8038, Dec. 30, 2005, 119 Stat. 2707.

Pub. L. 108-287, title VIII, § 8042, Aug. 5, 2004, 118 Stat. 979.

Pub. L. 108-87, title VIII, § 8042, Sept. 30, 2003, 117 Stat. 1081.

Pub. L. 107-248, title VIII, § 8042, Oct. 23, 2002, 116 Stat. 1546.

Pub. L. 107-117, div. A, title VIII, § 8045, Jan. 10, 2002, 115 Stat. 2257.

Pub. L. 106-259, title VIII, § 8045, Aug. 9, 2000, 114 Stat. 684.

Pub. L. 106-79, title VIII, § 8048, Oct. 25, 1999, 113 Stat. 1241.

Pub. L. 105-262, title VIII, § 8048, Oct. 17, 1998, 112 Stat. 2307.

§ 3522. Detail of employees

The Director may—

(1) detail any personnel of the Agency on a reimbursable basis indefinitely to the National Reconnaissance Office without regard to any limitation under law on the duration of details of Federal Government personnel; and

(2) hire personnel for the purpose of any detail under paragraph (1).

(June 20, 1949, ch. 227, § 22, as added Pub. L. 106-567, title IV, § 404, Dec. 27, 2000, 114 Stat. 2848.)

CODIFICATION

Section was formerly classified to section 403v of this title prior to editorial reclassification and renumbering as this section.

§ 3523. Intelligence operations and cover enhancement authority

(a) Definitions

In this section—

(1) the term “designated employee” means an employee designated by the Director of the Central Intelligence Agency under subsection (b) of this section; and

(2) the term “Federal retirement system” includes the Central Intelligence Agency Retirement and Disability System, and the Federal Employees’ Retirement System (including the Thrift Savings Plan).

(b) In general

(1) Authority

Notwithstanding any other provision of law, the Director of the Central Intelligence Agency may exercise the authorities under this section in order to—

- (A) protect from unauthorized disclosure—
- (i) intelligence operations;
 - (ii) the identities of undercover intelligence officers;
 - (iii) intelligence sources and methods; or
 - (iv) intelligence cover mechanisms; or

(B) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency.

(2) Designation of employees

The Director of the Central Intelligence Agency may designate any employee of the Agency who is under nonofficial cover to be an employee to whom this section applies. Such designation may be made with respect to any or all authorities exercised under this section.

(c) Compensation

The Director of the Central Intelligence Agency may pay a designated employee salary, allowances, and other benefits in an amount and in a manner consistent with the nonofficial cover of that employee, without regard to any limitation that is otherwise applicable to a Federal employee. A designated employee may accept, utilize, and, to the extent authorized by regulations prescribed under subsection (i) of this section, retain any salary, allowances, and other benefits provided under this section.

(d) Retirement benefits

(1) In general

The Director of the Central Intelligence Agency may establish and administer a non-

official cover employee retirement system for designated employees (and the spouse, former spouses, and survivors of such designated employees). A designated employee may not participate in the retirement system established under this paragraph and another Federal retirement system at the same time.

(2) Conversion to other Federal retirement system

(A) In general

A designated employee participating in the retirement system established under paragraph (1) may convert to coverage under the Federal retirement system which would otherwise apply to that employee at any appropriate time determined by the Director of the Central Intelligence Agency (including at the time of separation of service by reason of retirement), if the Director of the Central Intelligence Agency determines that the employee's participation in the retirement system established under this subsection is no longer necessary to protect from unauthorized disclosure—

- (i) intelligence operations;
- (ii) the identities of undercover intelligence officers;
- (iii) intelligence sources and methods; or
- (iv) intelligence cover mechanisms.

(B) Conversion treatment

Upon a conversion under this paragraph—

- (i) all periods of service under the retirement system established under this subsection shall be deemed periods of creditable service under the applicable Federal retirement system;

- (ii) the Director of the Central Intelligence Agency shall transmit an amount for deposit in any applicable fund of that Federal retirement system that—

- (I) is necessary to cover all employee and agency contributions including—

- (aa) interest as determined by the head of the agency administering the Federal retirement system into which the employee is converting; or
- (bb) in the case of an employee converting into the Federal Employees' Retirement System, interest as determined under section 8334(e) of title 5; and

- (II) ensures that such conversion does not result in any unfunded liability to that fund; and

- (iii) in the case of a designated employee who participated in an employee investment retirement system established under paragraph (1) and is converted to coverage under subchapter III of chapter 84 of title 5, the Director of the Central Intelligence Agency may transmit any or all amounts of that designated employee in that employee investment retirement system (or similar part of that retirement system) to the Thrift Savings Fund.

(C) Transmitted amounts

(i) In general

Amounts described under subparagraph (B)(ii) shall be paid from the fund or appro-

priation used to pay the designated employee.

(ii) Offset

The Director of the Central Intelligence Agency may use amounts contributed by the designated employee to a retirement system established under paragraph (1) to offset amounts paid under clause (i).

(D) Records

The Director of the Central Intelligence Agency shall transmit all necessary records relating to a designated employee who converts to a Federal retirement system under this paragraph (including records relating to periods of service which are deemed to be periods of creditable service under subparagraph (B)) to the head of the agency administering that Federal retirement system.

(e) Health insurance benefits

(1) In general

The Director of the Central Intelligence Agency may establish and administer a non-official cover employee health insurance program for designated employees (and the family of such designated employees). A designated employee may not participate in the health insurance program established under this paragraph and the program under chapter 89 of title 5 at the same time.

(2) Conversion to Federal employees health benefits program

(A) In general

A designated employee participating in the health insurance program established under paragraph (1) may convert to coverage under the program under chapter 89 of title 5 at any appropriate time determined by the Director of the Central Intelligence Agency (including at the time of separation of service by reason of retirement), if the Director of the Central Intelligence Agency determines that the employee's participation in the health insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

- (i) intelligence operations;
- (ii) the identities of undercover intelligence officers;
- (iii) intelligence sources and methods; or
- (iv) intelligence cover mechanisms.

(B) Conversion treatment

Upon a conversion under this paragraph—

- (i) the employee (and family, if applicable) shall be entitled to immediate enrollment and coverage under chapter 89 of title 5;

- (ii) any requirement of prior enrollment in a health benefits plan under chapter 89 of that title for continuation of coverage purposes shall not apply;

- (iii) the employee shall be deemed to have had coverage under chapter 89 of that title from the first opportunity to enroll for purposes of continuing coverage as an annuitant; and

- (iv) the Director of the Central Intelligence Agency shall transmit an amount

for deposit in the Employees' Health Benefits Fund that is necessary to cover any costs of such conversion.

(C) Transmitted amounts

Any amount described under subparagraph (B)(iv) shall be paid from the fund or appropriation used to pay the designated employee.

(f) Life insurance benefits

(1) In general

The Director of the Central Intelligence Agency may establish and administer a non-official cover employee life insurance program for designated employees (and the family of such designated employees). A designated employee may not participate in the life insurance program established under this paragraph and the program under chapter 87 of title 5 at the same time.

(2) Conversion to Federal employees group life insurance program

(A) In general

A designated employee participating in the life insurance program established under paragraph (1) may convert to coverage under the program under chapter 87 of title 5 at any appropriate time determined by the Director of the Central Intelligence Agency (including at the time of separation of service by reason of retirement), if the Director of the Central Intelligence Agency determines that the employee's participation in the life insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

- (i) intelligence operations;
- (ii) the identities of undercover intelligence officers;
- (iii) intelligence sources and methods; or
- (iv) intelligence cover mechanisms.

(B) Conversion treatment

Upon a conversion under this paragraph—

- (i) the employee (and family, if applicable) shall be entitled to immediate coverage under chapter 87 of title 5;
- (ii) any requirement of prior enrollment in a life insurance program under chapter 87 of that title for continuation of coverage purposes shall not apply;
- (iii) the employee shall be deemed to have had coverage under chapter 87 of that title for the full period of service during which the employee would have been entitled to be insured for purposes of continuing coverage as an annuitant; and
- (iv) the Director of the Central Intelligence Agency shall transmit an amount for deposit in the Employees' Life Insurance Fund that is necessary to cover any costs of such conversion.

(C) Transmitted amounts

Any amount described under subparagraph (B)(iv) shall be paid from the fund or appropriation used to pay the designated employee.

(g) Exemption from certain requirements

The Director of the Central Intelligence Agency may exempt a designated employee from

mandatory compliance with any Federal regulation, rule, standardized administrative policy, process, or procedure that the Director of the Central Intelligence Agency determines—

- (1) would be inconsistent with the nonofficial cover of that employee; and
- (2) could expose that employee to detection as a Federal employee.

(h) Taxation and social security

(1) In general

Notwithstanding any other provision of law, a designated employee—

(A) shall file a Federal or State tax return as if that employee is not a Federal employee and may claim and receive the benefit of any exclusion, deduction, tax credit, or other tax treatment that would otherwise apply if that employee was not a Federal employee, if the Director of the Central Intelligence Agency determines that taking any action under this paragraph is necessary to—

- (i) protect from unauthorized disclosure—
 - (I) intelligence operations;
 - (II) the identities of undercover intelligence officers;
 - (III) intelligence sources and methods;
 or
 - (IV) intelligence cover mechanisms;
 and
- (ii) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency; and

(B) shall receive social security benefits based on the social security contributions made.

(2) Internal Revenue Service review

The Director of the Central Intelligence Agency shall establish procedures to carry out this subsection. The procedures shall be subject to periodic review by the Internal Revenue Service.

(i) Regulations

The Director of the Central Intelligence Agency shall prescribe regulations to carry out this section. The regulations shall ensure that the combination of salary, allowances, and benefits that an employee designated under this section may retain does not significantly exceed, except to the extent determined by the Director of the Central Intelligence Agency to be necessary to exercise the authority in subsection (b) of this section, the combination of salary, allowances, and benefits otherwise received by Federal employees not designated under this section.

(j) Finality of decisions

Any determinations authorized by this section to be made by the Director of the Central Intelligence Agency or the Director's designee shall be final and conclusive and shall not be subject to review by any court.

(k) Subsequently enacted laws

No law enacted after the effective date of this section shall affect the authorities and provi-

sions of this section unless such law specifically refers to this section.

(June 20, 1949, ch. 227, §23, as added Pub. L. 108-487, title IV, §402, Dec. 23, 2004, 118 Stat. 3946.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (k), is the date of enactment of Pub. L. 108-487, which was approved December 23, 2004. See section 801 of Pub. L. 108-487, set out as an Effective Date of 2004 Amendments note under section 2656f of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was formerly classified to section 403w of this title prior to editorial reclassification and renumbering as this section.

CHAPTER 47—NATIONAL SECURITY AGENCY

Sec.	
3601.	Short title.
3602.	Director of the Agency and Director of Compliance.
3603.	Repealed.
3604.	Additional compensation.
3605.	Disclosure of Agency's organization, function, activities, or personnel.
3606.	Repealed.
3607.	Support for activities and personnel outside the United States.
3608.	Language training and cryptologic linguist reserve programs.
3609.	Enhancement of security authorities.
3610.	Senior Cryptologic Executive Service.
3611.	Cryptologic research grant program.
3612.	Availability of appropriations.
3613.	Misuse of Agency name, initials, or seal.
3614.	Louis Stokes Educational Scholarship Program.
3615.	Repealed.
3616.	Transportation of remains of certain employees.
3617.	National Security Agency Emerging Technologies Panel.
3618.	Collection of service charges for certification or validation of information assurance products.

§ 3601. Short title

This chapter may be cited as the "National Security Agency Act of 1959".

(Pub. L. 86-36, §1, as added Pub. L. 96-450, title IV, §402(a)(2), Oct. 14, 1980, 94 Stat. 1978.)

CODIFICATION

Section was formerly classified in a note under section 402 of this title prior to editorial reclassification as this section.

PRIOR PROVISIONS

A prior section 1 of Pub. L. 86-36, May 29, 1959, 73 Stat. 63, amended section 1082 of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 660.

§ 3602. Director of the Agency and Director of Compliance

(a)(1) There is a Director of the National Security Agency.

(2) The Director of the National Security Agency shall be appointed by the President, by and with the advice and consent of the Senate.

(3) The Director of the National Security Agency shall be the head of the National Security Agency and shall discharge such functions and duties as are provided by this chapter or otherwise by law or executive order.

(b) There is a Director of Compliance of the National Security Agency, who shall be appointed by the Director of the National Security Agency and who shall be responsible for the programs of compliance over mission activities of the National Security Agency.

(Pub. L. 86-36, §2, as added Pub. L. 111-259, title IV, §433, Oct. 7, 2010, 124 Stat. 2732; amended Pub. L. 113-126, title IV, §401(a), July 7, 2014, 128 Stat. 1407.)

CODIFICATION

Section was formerly classified in a note under section 402 of this title prior to editorial reclassification as this section.

PRIOR PROVISIONS

A prior section 2 of Pub. L. 86-36, May 29, 1959, 73 Stat. 63; Pub. L. 87-367, title II, §201, Oct. 4, 1961, 75 Stat. 789; Sept. 23, 1950, ch. 1024, title III, §306(a), as added Pub. L. 88-290, Mar. 26, 1964, 78 Stat. 170; Pub. L. 88-426, title III, §306(h), Aug. 14, 1964, 78 Stat. 430; Pub. L. 88-631, §3(d), Oct. 6, 1964, 78 Stat. 1008; Pub. L. 89-632, §1(e)(1), Oct. 8, 1966, 80 Stat. 878; Pub. L. 102-496, title IV, §405, Oct. 24, 1992, 106 Stat. 3186, related to authority of Secretary of Defense to establish positions and fix compensation, prior to repeal by Pub. L. 104-201, div. A, title XVI, §§1633(b)(1), 1635, Sept. 23, 1996, 110 Stat. 2751, 2752, effective Oct. 1, 1996.

AMENDMENTS

2014—Pub. L. 113-126 added subsec. (a) and designated existing provisions as subsec. (b).

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-126 effective Oct. 1, 2014, and applicable upon the earlier of the date of the first nomination by the President of an individual to serve as the Director of the National Security Agency that occurs on or after Oct. 1, 2014, or the date of the cessation of the performance of the duties of the Director of the National Security Agency by the individual performing such duties on Oct. 1, 2014, subject to an exception for initial nominations, see section 403 of Pub. L. 113-126, set out as a note under section 8G of the Inspector General Act of 1978, Pub. L. 95-452, in the Appendix to Title 5, Government Organization and Employees.

POSITION OF IMPORTANCE AND RESPONSIBILITY

Pub. L. 113-126, title IV, §401(b), July 7, 2014, 128 Stat. 1408, provided that:

"(1) IN GENERAL.—The President may designate the Director of the National Security Agency as a position of importance and responsibility under section 601 of title 10, United States Code.

"(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date of the enactment of this Act [July 7, 2014]."

§ 3603. Repealed. Pub. L. 104-201, div. A, title XVI, § 1633(b)(1), Sept. 23, 1996, 110 Stat. 2751

Section, Pub. L. 86-36, §4, May 29, 1959, 73 Stat. 63; Pub. L. 87-367, title II, §204, Oct. 4, 1961, 75 Stat. 791; Pub. L. 87-793, §1001(c), Oct. 11, 1962, 76 Stat. 864; Pub. L. 89-632, §1(e)(2), Oct. 8, 1966, 80 Stat. 878; Pub. L. 91-187, §2, Dec. 30, 1969, 83 Stat. 850, authorized establishment of civilian positions in research, development, science, medicine, and cryptology.

CODIFICATION

Section was formerly classified in a note under section 402 of this title and repealed prior to editorial reclassification as this section.